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## Open the process: Public should be involved in deciding who has access

KANE ROAD DISPUTE

Salt Lake Tribune

We hope that a tentative agreement that is said to be imminent between the U.S. Interior Department and Kane County over road signs on federal land turns out to be fair and representative of the public's interest.

But, so far, we have no way of knowing.

The secret agreement is an attempt to settle a standoff between the Bureau of Land Management, which posted signs making some public land in and around Grand Staircase-Escalante National Monument off-limits to all-terrain vehicles, and Kane County officials, who two years ago took down dozens of the BLM signs and more recently began putting up their own vehicle trail signs in the federal monument.

Kane officials reasoned they had authority to assert their road claims under RS2477, a Civil War-era mining law that granted rights of way across federal lands. Congress repealed that law in 1976, grandfathering in existing roads. However, what constituted a road was not clearly defined.

Earlier this year the 10th U.S. Circuit Court of Appeals ruled that the state and counties must prove a decade of "continuous use" to make a valid claim to a right of way on federal land.

Most of what the county and Interior Department are discussing now has been kept under wraps, which is fine while negotiations are ongoing. Once the details have been worked out, however, the public should be brought into the picture before any agreement is signed. But Kane County Commissioner Mark Habbeshaw has said that his constituents, whose opinions about Habbeshaw's vigilante tactics have been mixed, will not be shown the agreement until after the county commission has signed it.

That arbitrariness, more befitting a dictatorship than a democracy, has infused this dispute from its inception in 2003, with Habbeshaw talking and behaving as if public land in Kane County is his domain, subject to his dictums about who should have access and where. Public land, of course, is just that, and it is managed on behalf of all Americans by federal agencies charged with protecting it from overuse and the damage that OHVs can cause.

Just as with the original monument master plan, any revisions should be open to public scrutiny and comment before they are adopted. Without public involvement, the Interior Department may cede too much to the county and leave these treasured lands vulnerable to misuse.